

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

GEOFFREY DAVIS,

Petitioner,

v.

ED VOORHIES, Warden,

Respondent.

CASE NOS. 2:08-CV-1099
2:09-CV-1125
2:10-CV-48

JUDGE MARBLEY
MAGISTRATE JUDGE KING

ORDER

On July 1, 2010, the United States Magistrate Judge issued a *Report and Recommendation* recommending that the instant consolidated petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 be dismissed. Doc. No. 17. Petitioner has filed objections to the Magistrate Judge's *Report and Recommendation*. Doc. No. 19.

Petitioner asserts five claims in these consolidated actions:

1. The remedy Ohio Supreme Court dictated in *State v. Foster*... violates the Ex Post Facto and Due Process Clauses of the United States Constitution.
2. Reopening of an appeal is warranted when a defendant is denied effective assistance of appellate counsel as guaranteed by the United States and Ohio Constitution when counsel fails to assert issues, including violations of *Brady v. Maryland*... prosecutorial misconduct and a claim of ineffective assistance of counsel.
3. Application for reopening appeal from judgment and conviction based on claim of ineffective assistance of counsel should be granted when applicant shows good cause for failing to file within ninety days after journalization of the Court of Appeals decision affirming the conviction as required by App.

R. 26(B).

4. Sentence contrary to law and violates equal protection and in conflict with *State v. Bolton*.

5. The lower courts have denied me my rights to the JTC entitled to [sic].

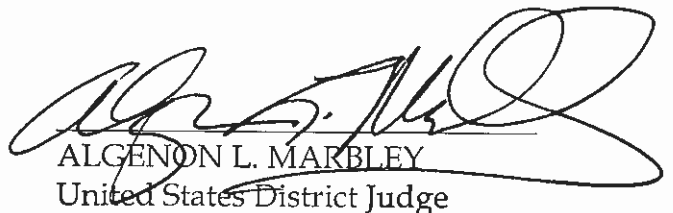
The Magistrate Judge concluded that petitioner's second claim, *i.e.*, that he was denied the effective assistance of appellate counsel, was procedurally defaulted, *Report and Recommendation*, at 7 - 12; that petitioner's first, fourth and fifth claims -- which address petitioner's sentence -- were without merit, *id.*, at 12 - 19; and that petitioner's third claim failed to present a federal issue appropriate for habeas corpus review, *id.*, at 19.

Petitioner objects to the Magistrate Judge's recommendation of dismissal of claim two as procedurally defaulted, and again asserts that his sentence violated *State v. Bolton*, 143 Ohio St.3d 185 (2001).

Pursuant to 28 U.S.C. § 636(b), this Court has conducted a *de novo* review of the record. For the reasons already detailed in the *Report and Recommendation*, petitioner's objections are **OVERRULED**.

The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED**.

The Clerk shall enter FINAL JUDGMENT.


ALGENON L. MARBLEY
United States District Judge